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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
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8 RANDAL N. WIIDEMAN,)
9 Plaintiff,) 3:10-cv-0152-RCJ-RAM
10 vs.)
11 HOWARD SKOLNIK,)
12 Defendant.)

13 Plaintiff Randal Wiideman filed a complaint in Nevada State Court alleging violations
14 of his constitutional rights under 42 U.S.C. § 1983 which was dismissed for failure to state a claim
15 (docket #12), pursuant to the provisions of 28 U.S.C. § 1915. Plaintiff now moves to vacate the order
16 of dismissal (docket #15) and has filed an amended complaint (docket #16). The motion to vacate shall
17 be denied and the amended complaint shall be stricken.
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19 **II. Discussion**

20 To prevail under section 1983, a plaintiff must demonstrate that he has suffered a
21 violation of rights protected by the constitution or federal statute, caused by the conduct of a person
22 acting under color of state law. *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). Here,
23 plaintiff brings a single claim for relief alleging that the defendant violated his due process rights
24 guaranteed by the Fourteenth Amendment in his interpretation and enforcement of a Nevada statute,
25 which plaintiff alleges is unconstitutional.

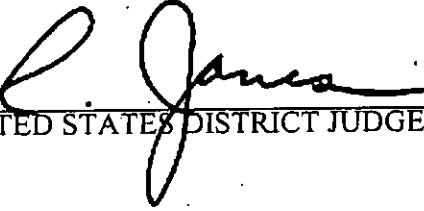
26 Plaintiff contends that he is entitled to amend the complaint without leave of the court
because no answer has been filed. This argument is misplaced in the arena of prisoner litigation.

1 Under 28 U.S.C. § 1915, plaintiff's complaint is subject to dismissal without leave to amend if it
2 appears to the court that plaintiff can state no facts which would establish a violation of federal law.
3 The court concluded that no such facts exist as the statute plaintiff attacks provides limitations to his
4 actions that are rationally related to his circumstances as a prisoner and convicted felon. His desire
5 to enjoy the freedoms of a free man in American notwithstanding, plaintiff's allegations fail to state a
6 claim for relief. The complaint was properly dismissed and shall remain so.

7 **IT IS THEREFORE ORDERED** that Motion to Vacate Order and Judgment
8 (docket #15) is **DENIED**.

9 **IT IS FURTHER ORDERED** that the Amended Complaint (docket #16) shall be
10 stricken from the record.

11 DATED this 28th day of December, 2010.

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13 E. Jones
14 UNITED STATES DISTRICT JUDGE
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